

FILED IN CHAMBERS  
U.S.D.C. Atlanta

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

DEC 15 2010

JAMES N. HATTEN, Clerk  
By *gmu* Deputy Clerk

UNITED STATES OF AMERICA :  
: CRIMINAL ACTION  
v. :  
: NO. 1:10-CR-304-JEC-RGV  
FRANCISCO ARELLANO :

**REPORT AND RECOMMENDATION CONCERNING PLEA OF GUILTY<sup>1</sup>**

The defendant, Francisco Arellano ("defendant"), by consent, has appeared before the undersigned United States Magistrate Judge and has entered a plea of guilty to Counts One and Two of the information. After cautioning and examining the defendant under oath concerning each of the subjects mentioned in Rule 11, I have determined that the guilty plea was knowing and voluntary, and that the plea to the offense charged is supported by an independent basis in fact establishing each of the essential elements of the offense. I have also determined that, to the maximum extent permitted by federal law, the defendant has voluntarily and expressly waived his right to appeal the conviction and sentence and the right to collaterally attack his sentence in any post-conviction proceedings, including by motion filed pursuant to 28 U.S.C. § 2255, on any ground, except that the defendant

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<sup>1</sup> Failure to file written objections to this Report and Recommendation within FOURTEEN (14) DAYS after service of a copy of this Report and Recommendation shall bar an aggrieved party from attacking such report and recommendation before the assigned United States District Judge. 28 U.S.C. § 636(b)(1)(B).

may file a direct appeal of (1) an upward departure or a variance from the sentencing guideline range as calculated by the district court, and (2) the sentencing court's finding as to the application of Section 2A1.1 of the Sentencing Guidelines, and/or determination of a Final Adjusted Base Offense Level greater than 31 after application of a 3-level adjustment for acceptance of responsibility and any other adjustment applied by the sentencing court, and if the Government appeals the sentence imposed, the defendant may also file a direct appeal of his sentence. It is, therefore, **RECOMMENDED** that the plea of guilty be accepted and that the defendant be adjudged guilty and have sentence imposed accordingly.

IT IS SO RECOMMENDED this 15th day of December, 2010.

  
RUSSELL G. VINEYARD  
UNITED STATES MAGISTRATE JUDGE